

**COMMISSION FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND
SUBSTANCE ABUSE SERVICES**

Rule Committee Minutes

Double Tree Hotel
1707 Hillsborough Street
Raleigh, NC

**Thursday, April 25, 2013
1:00 pm**

Commission Members Attending:

Dr. Richard Brunstetter, Anna R. Cunningham, Dr. James Finch, Michael R. Grannis, Kevin Oliver, Dr. Marian Spencer, Don Trobaugh, David Turpin, Carol C. Vale, Dr. Greg Olley

Excused Absences:

Dr. Peggy Terhune, Pamela Poteat, F. Michael Maybee

Division Staff:

W. Denise Baker, Marta T. Hester, Andrea Borden

Call To Order:

Kevin Oliver, Chair, NC Commission for Mental Health, Developmental Disabilities and Substance Abuse Services (Commission) Rules Committee called the meeting to order at approximately 1:00 pm with a moment of reflection. Mr. Oliver then issued the ethics statement and conflict of interest reminder.

Old Business:

Mr. Oliver stated that there were not many changes since the last Rules Committee meeting was held. Mr. Oliver asked if any of the members had questions related to old business. A member asked if there was an update on the status of the Prison Rules. Denise Baker, Team Leader, Division Affairs Team, NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services (the "Division"), responded that the Prison Rules were submitted to the Office of State Budget and Management (OSBM) for review of the fiscal note. OSBM completed its review and sent it back for follow-up and additional information. Ms. Baker stated that several of the rules amended would create a substantial fiscal impact, and when the rules do come before the Committee for review they will need to look at other options to consider when moving forward. Mr. Oliver asked that the Division report back to the Committee a timeframe for when the rule would be returned to the Committee for final review. Ms. Baker stated that she would see if someone from the Department of Public Safety would come and talk to the Committee about the rules.

New Business:

Proposed Amendment of Rule 10A NCAC 27G .0504 – Local Management Entity Client Rights Committee and Provider Client Rights Committee

W. Denise Baker, Team Leader, Division Affairs Team, and Glenda Stokes, Team Leader, Customer Services and Community Rights Team, NC Division of MH/DD/SAS, gave the presentation on Rule 10A NCAC 27G .0504. The amended language is necessary to update the rule to conform to current developments in mental health. Session Law 2009-190, House Bill 1087, amended N.C.G.S. § 122C-64, Human Rights Committees to require that provider agencies have Clients Rights Committees. This rule has gone through the public comment period; a comment grid was prepared for the Committee that reflects all comments received as well as the Division staff responses thereto. This is a Commission rule presented to the Rules Committee for approval to forward to the Commission for final review.

Upon motion, second and unanimous vote, the Rules Committee approved the amendment of Rule 10A NCAC 27G .0504 - Local Management Entity Client Rights Committee and Provider Client Rights Committee and forwarded the rule to the Commission for final review.

House Bill 622 - Appointee Serves at Pleasure of Appointer:

The Rules committee discussed their concerns and the concerns from the Advisory Committee surrounding House Bill 622. This bill would allow the Governor limited flexibility to remove gubernatorial appointees to Boards and Commissions during their terms of office without cause.

Upon motion, second, and unanimous vote, the Rules Committee agreed with the Advisory Committee recommendation to have Dr. Olley write a letter to the Secretary of the Department of Health and Human Services voicing its concerns. The letter would be voted on electronically by the full Commission for final approval before distribution.

Session Law 2013-18 – An Act to Amend the Laws Governing Incapacity to Proceed:

This Session Law requires the Commission to adopt rules by December 1, 2013, to require forensic evaluators appointed pursuant to G.S. 15A-1002(b) to meet the following requirements:

1. Complete all training requirements necessary to be credentialed as a certified forensic evaluator.
2. Attend annual continuing education seminars that provide continuing education and training in conducting forensic evaluations and screening examinations of defendants to determine capacity to proceed and in preparing written reports required by law.

The Commission also has to adopt guidelines by December 1, 2013 for treatment of individuals who are involuntarily committed following a determination of incapacity to proceed and a referral pursuant to G.S. 15A-1003. The guidelines shall require a treatment plan that uses best practices in an effort to restore the individual's capacity to proceed in the criminal matter.

A small workgroup will be convened lead by Dr. Ureh Lekwauwa, Chief, Clinical Policy, NC DMH/DD/SAS. The workgroup will be composed of staff from the Division, staff from the Division of State Operated Healthcare Facilities, Dr. Greg Olley, Kevin Oliver, Don Trobaugh, and Dr. Richard Brunstetter. Ms. Baker asked if there were any other members of the Rules Committee who wanted to be a part of the workgroup.

Ms. Baker explained that, due to time constraints, this particular rule would have to go directly to the full Commission and bypass the Rules Committee. Ms. Baker further stated that the Rule would have to be ready for publication in the NC Register by September 2013.

Legislative Handout:

The Rules Committee reviewed the handout on legislation that was distributed to members of both the Rules and the Advisory Committees. The handout was composed of legislation introduced by the NC General Assembly, which may be of interest or, if passed, require action by the Commission. The following legislative bills were discussed:

- House Bill 981 – New MH/DD/SA Region & Psychiatric Hospital
- Senate Bill 206 – Strengthen Controlled Substance Reporting System
- Senate Bill 663 – Blue Ribbon Comm. Recs./Supportive MH Housing
- House Bill 580 – Establish Statewide Telepsychiatry Program
- Senate Bill 562 – Establish Statewide Telepsychiatry Program
- Session Law 2013-18 - An Act to Amend the Laws Governing Incapacity to Proceed

The Rules Committee entertained a motion for Dr. Finch to forward a summary of his concerns regarding Senate Bill 206 to Ms. Baker. A letter would then be prepared for Dr. Olley's signature and presented to the Secretary, NC Department of Health and Human Services.

Upon motion, second, and unanimous vote, the Rules Committee approved the letter of concern regarding Senate Bill 206 to be forwarded to the full Commission for approval and presented to the Secretary, NC Department of Health and Human Services.

Public Comment:

There were no public comments.

Adjournment:

There being no further business, the meeting adjourned.